

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM DALY HARRINGTON,

Defendant.

Case No. CR-21-05-H-BMM

AMENDED ORDER

Defendant William Harrington's (Harrington) Motion to Continue Trial (Doc. 43) is now before the Court. Plaintiff objects to this motion.

Harrington requests a 30 day continuance of the current trial setting of November 2, 2021. Harrington states in his brief in support of his motion (Doc. 44) that due to the logistical challenges in this case, including the prohibition on distributing the discovery, Harrington's defense counsel had to make arrangements for a computer forensics expert to review the discovery in person at the FBI Regional Forensics Lab in Orange County, California. That review took place late last week. During that review, the computer forensics expert discovered some information that warrants further investigation and potentially the filing of a motion for disclosure of exculpatory information pursuant to *Brady v. Maryland*.

Thus, Harrington's counsel requires more time to complete additional forensic investigation and to prepare and file any motions necessitated by that investigation. Because of these factors a continuance is warranted.

A district court may grant a continuance and exclude the time period of the continuance from the calculation of the speedy trial date when "the ends of justice served by [the continuance] outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. §3161(h)(7)(A). In determining whether an "ends of justice continuance" is appropriate, a district court must consider, inter alia, whether the failure to grant the continuance will result in a miscarriage of justice; whether the case is so unusual or complex that it is unreasonable to expect adequate preparation within the time limits imposed by the Speedy Trial Act; and whether the case, while not complex or unusual, would nonetheless deny counsel the reasonable time necessary for effective reparation. *Id.* §3161(h)(7)(B). An "ends of justice continuance . . . must be specifically limited in time [and] must be justified on the record with reference to the facts as of the time the delay is ordered." *United States v. Lloyd*, 125 F.3d 1263, 1268 (9th Cir. 1997). Any additional time is properly excluded under the Speedy Trial Act "only if the district court makes certain findings enumerated in [§ 3161(h)(7)]." *Bloate v. United States*, 130 S. Ct. 1345, 1351 (2010).

Harrington is charged with Distribution of Child Pornography in violation of Title 18 U.S.C. § 2252A(a)(2)(b); and Possession of Child Pornography, in violation of Title 18 U.S.C. § 2252A(a)(5)(b); and Forfeiture, Title 18 U.S.C. §2253(a). The crime allegedly occurred in or about November 17, 2019, May 22, 2020, August 16, 2020 and January 27, 2021, in Lewis and Clark County, in the State and District of Montana and elsewhere. If convicted, Harrington faces a maximum sentence of 20 years in prison.

A continuance of the trial is appropriate under 18 U.S.C. §§3161(h)(7)(A), (B)(I) and (B)(ii). The ends of justice served by a continuance outweighs the interests of the Defendant and the public in a speedy trial. The failure to grant a continuance would deny Harrington and his counsel the reasonable time necessary for effective trial preparation, resulting in a potential miscarriage of justice. Accordingly,

IT IS HEREBY ORDERED that Harrington's Motion to Continue Trial (Doc. 43) is **GRANTED**. **IT IS ALSO ORDERED** that the final pretrial conference and jury trial set for November 2, 2020, are **VACATED**.

The following schedule shall apply. The final pretrial conference is rescheduled for **Tuesday, December 7, 2021 at 8:30 a.m.** The parties are to

report to the chambers of the undersigned. The jury trial is rescheduled for **Tuesday, December 7, 2021 at 9:00 a.m.** in the Charles N. Pray Courtroom at the Missouri River Federal Courthouse, Great Falls, Montana. The motions deadline is **November 5, 2021** The plea agreement/notice of intent to proceed to trial deadline is **November 23, 2021**. Expert reports are due on or before **November 26, 2021**. The Jury Instructions and Trial Briefs are due by **November 30, 2021**.

All time between the date of this order and December 7, 2021, shall be excluded for purposes of speedy trial.

DATED this 5th day of October, 2021.

A handwritten signature in blue ink, reading "Brian Morris".

Brian Morris, Chief District Judge
United State District Court